

Testimony before the House Insurance Committee on HB 5453 ( Medicare Waiver): 2-14-2008

Dear Mr. Chairman,

On February 5, MAIA's Legislative and Public Policy Committee voted to make the following recommendation to the full MAIA Board:

[HB 5453 would allow MediCare enrollees to opt out of PIP coverage.]

Motion to support HB 5453 if it were amended to include agent liability protections with respect to customers who would choose to opt out of PIP coverage. Supported and adopted unanimously.

Rationale: Michigan is a unique no-fault state. Moving from decades of Unlimited Medical Coverage to no PIP coverage in the event of bodily injury in an automobile accident creates a unique set of circumstances that may expose insurance producers and carriers to significantly increased liability exposures. Additional language to protect producers during this transition period from unwarranted lawsuits is needed and appropriate.

This is a recommendation from the committee to the full board and so it is not yet a formal position of MAIA. However, the Board probably will accept this recommendation and make it a formal position at their next Board Meeting at the end of February.

The following are suggestions to protect insurance producers (agents) from unwarranted lawsuits in relation to an insured opting out of PIP coverage:

- Agent indemnity; suggested language may look like the following:

[Insert following page 13, line 14] **(3) AN INSURER SHALL INDEMNIFY, DEFEND, AND HOLD HARMLESS PRODUCERS FROM AND AGAINST ALL LIABILITY, FEES, AND COSTS ARISING OUT OF OR RELATING TO THE ACTIONS, ERRORS, OR OMISSIONS OF A PRODUCER WHO OBTAINS, ON THE BEHALF OF THE INSURER, A SIGNED FORM FROM A PERSON WHO WAIVES COVERAGE FOR PERSONAL PROTECTION INSURANCE BENEFITS, PROVIDED THAT THE PRODUCER FOLLOWS THE PROCEDURES AND INSTRUCTIONS ESTABLISHED BY THE INSURER AND COMPLIES WITH ALL APPLICABLE LAWS AND REGULATIONS. NOTHING IN THIS SECTION SHALL BE CONSTRUED TO PROVIDE AN INSURED OR APPLICANT FOR INSURANCE WITH A CAUSE OF ACTION THAT DOES NOT EXIST IN THE ABSENCE OF THIS SECTION.**

Thank you for your consideration.

*Scott Hummel*

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